

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANTHONY PAUL DABROWSKI, JR.,)	
)	
Plaintiff,)	Civil Action No. 20-142E
)	
v.)	Judge Cathy Bissoon
)	
OFFICER JOSHUA ALLISON, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Defendants’ Motion to Dismiss (Doc. 55) will be denied. In terms of relation back, notice to the putative Defendants can be actual or constructive. Constructive notice can be met under the “shared attorney” method or the “identity of interest” method. Miller v. Hassinger, 173 Fed. Appx. 948, 955-56 (3d Cir. Apr. 6, 2006) (citation to binding authority omitted). Here, both appear likely to have been satisfied. Lest there remain any doubt, discovery should be permitted before arguments for dismissal are adjudicated. *See id.* (holding same).

As for Defendants’ arguments regarding First Amendment retaliation, the pleadings do not make such a claim. *See* Am. Compl. (Doc. 51); Pl.’s Opp’n (Doc. 58) at 10-11 (confirming same). The Court cannot dismiss what has not been pleaded.

For these reasons, Defendants’ Motion to Dismiss (**Doc. 55**) is **DENIED**. Consistent with Federal Rule 12(a)(4)(A), answer(s) are due October 24, 2023.

IT IS SO ORDERED.

October 10, 2023

s/Cathy Bissoon

Cathy Bissoon
United States District Judge

cc (via ECF email notification):

All Counsel of Record